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TAX COMMISSIONER

Property Tax Newsletter

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2001 Legislature-One Month Away

The Property Tax Division is preparing for the upcoming legislative session. There have been Taxation Committee hearings during the interim but no bills relating to property tax were produced.

The Office of State Tax Commissioner intends to introduce agency bills that relate to assessing inundated agricultural land, and clean-up legislation for the tax deed proceedings passed last session.

The inundated land bill adds the following requirements to obtain the inundated land status: the inundated land must contain at least ten contiguous acres, be inundated for three consecutive growing seasons or more, and produce revenue from all sources in the most recent prior year that is less than the county average revenue per acre for noncropland as calculated by NDSU. An application for inundated status must be made in writing before March 31 of each year.

Corrections to the tax deed proceedings include: provision for the collection of real estate taxes on leasehold or possessory interests; tax deed form from the County Auditor to the county; provision for charging 12 percent interest on delinquent taxes and special assessments; and corrections to references to tax sale and redemption in North Dakota Century Code (N.D.C.C.) §§ 57-28-07 and 57-45-11. ●

Revised Certifications Available For Tax Abstracts

North Dakota Century Code § 57-01-02(5) provides that the Office of State Tax Commissioner is responsible for prescribing the forms necessary for counties to report assessment and property tax information to the Tax Commissioner.

Because Directors of Tax Equalization in some counties complete the abstracts, it seemed appropriate that either the County Auditor or County Director of Tax Equalization sign and certify the accuracy of the abstracts.

County Auditors and Directors of Tax Equalization have already been informed of the signature and certification for the Abstract of Assessments. We will send the revised certification with the Supplementary Abstract, National Guard Abstract, and Game and Fish Abstract for 2001. ●

Applications For Property Tax Exemption

North Dakota Century Code § 57-02-03 provides that all property is subject to taxation in North Dakota unless specifically exempted by law. This means assessors must list and assess all real property in their assessment jurisdictions according to its value on February 1 each year, unless there is a specific statute that provides for an exemption and the assessor has evidence of the request for exemption.

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Statutes providing for real property exemption include: N.D.C.C. ch. 40-57.1 (exemption for new and expanding businesses), ch. 57-02.2 (exemption of improvements to commercial and residential buildings), § 57-02-08 (property exempt from taxation), § 57-02-08.4 (conditional property tax exemption for owners of wetlands), and § 57-02-10 (inundated and highway easement lands exempt from taxation).

There are specific applications for the following property tax exemptions:

- New and expanding businesses [ch. 40-57.1]
- Improvements to commercial and residential buildings [ch. 57-02.2]
- Farm residence [§ 57-02-08(15)]
- Solar energy heating or cooling systems or equipment [§ 57-02-08(27)]
- Conditional property tax exemption for qualifying wetlands [§ 57-02-08.4]
- Property tax exemptions [§ 57-02-08, other than subsections 15 and 27]

The Board of County Commissioners authorizes, by resolution, exemption of inundated lands and highway easement lands at the time when the water or wildlife conservation project or highway is completed [§ 57-02-10].

Property owned by the United States, State of North Dakota, any of its agencies, departments or political subdivisions is exempt from taxation based solely upon ownership. Therefore, governmental agencies do not need to file applications for exemption.

North Dakota Century Code § 57-02-14.1 requires any person or organization claiming exemption of property located within the boundaries of a city to file an Application For

Property Tax Exemption with the City Assessor each year. Generally, this form is used to apply for exemptions claimed under N.D.C.C. § 57-02-08. Examples of exemptions for which this application is used include, but are not limited to, property owned and used by churches, hospitals and nursing homes, disabled veterans, blind persons, nonprofit organizations, and condominiums.

Because North Dakota requires annual assessments, and ownership and/or usage may change from one year to the next, assessment officials need to review the taxable or exempt status of properties each year on February 1. The property owner has the responsibility to request exemption each year and should contact the assessor to determine the proper procedure for requesting an exemption.



Auditor's Lots – Platted or Unplatted Land?

The Property Tax Division recently responded to a question of whether an auditor's lot is considered platted land for purposes of the farm building exemption.

North Dakota Century Code § 57-02-08(15)(a)(2) provides, in part, that structures located on platted land within the corporate limits of a city are not exempt as farm buildings.

The County Auditor has authority according to N.D.C.C. § 57-02-39 to require that owners with irregular tracts of land described by metes and bounds have their parcels surveyed and platted. The platted parcels are generally described as auditor's lots or outlots. The purpose for the platting is to obtain the precise location of an irregularly shaped parcel and a brief legal description for the assessment and tax lists.

Land within cities is platted for purpose of orderly development according to N.D.C.C. ch. 40-50. For purposes of the farm building exemption [N.D.C.C. § 57-02-08(15)], the legislative intent of the term "platted land" is land platted according to N.D.C.C. ch. 40-50.

The North Dakota Supreme Court determined that a county auditor's plat made according to N.D.C.C. § 57-02-39 is made for taxation purposes only, and is not a platting according to N.D.C.C. ch. 40-50 governing platting of land in cities. Frandsen v. Mayer, 155 N.W.2d 294 (N.D. 1967).

It is the position of the Office of State Tax Commissioner that the County Auditor has authority to request platting whenever there is a metes and bounds description, regardless of size. It is also the position of the Tax Commissioner that real property described as auditor's lots or outlots is not platted land. Therefore, buildings located on an auditor's lot within an incorporated city may qualify for exemption as farm buildings, provided they meet the qualifications provided in N.D.C.C. § 57-02-08(15). ●

Teaching Manual Revised

The Teaching Manual has been revised after Course 303 – Teaching Appraisal Techniques, was completed in May. The entire manual was rearranged and expanded.

County Directors of Tax Equalization may request a copy of the manual from the Property Tax Division. The Supervised Home Study Manual will be revised to correspond with the Teaching Manual. ●

NDAAO Adds To Its Library

The North Dakota Association of Assessing Officers (NDAAO) has added three items to its library.

One item is a booklet titled Assessment Practices – A Self Evaluation Guide. The Guide is in question-answer format so assessment officials may evaluate various aspects of the assessment functions very quickly and have feedback for explanation and implementing improvements. The Guide pertains to the following areas of assessment:

- Value standard, assessment cycle, and legal framework
- Resources
- Management procedures and internal controls
- Mapping and land information
- Data collection and management
- Land valuation
- Residential property valuation
- Commercial property valuation
- Personal property assessment (not applicable in ND)
- Tax administration
- Where to go from here

The other two items are cassette tape series titled Real Estate Math and The Vocabulary of Real Estate. Each has three cassette tapes and a workbook. The Real Estate Math discusses basic arithmetic, area, taxes, finances, prorations, capitalization and percentages. The Vocabulary of Real Estate covers such things as introduction to real property, home ownership, interests in real property, methods of ownership, government powers, legal descriptions, taxes and liens, contracts and escrows, transfer of title, title records, real estate law, finance, leases, property management, land use control and construction terminology.

These home study courses are useful to anyone for learning and review. County Directors of Tax Equalization can use the material to develop problems and case studies for the assessor schools and seminars.

Anyone wishing to check out any of these items or others owned by NDAAO may do so. Contact LuElla Wedge by phone at 328-3143 or toll free in North Dakota 1-800-638-2901, option 5; or by e-mail at lwedge@state.nd.us. ☐

Homestead Credit Reminder

The 2001 assessment will soon be upon us and that means assessment offices will receive many applications for the homeowners property tax credit.

Completed applications will contain income information about the applicant and dependent persons. The Attorney General determined that income information listed for questions four through ten of the application is confidential and should not be available to the public.

The income information may be disclosed to the County Auditor and Board of County Commissioners so they may perform their official duties. The County Auditor must submit an annual summary and certification of the credits to the State Tax Commissioner. The Board of County Commissioners needs the information to determine whether to approve or deny an application for abatement or refund of tax requested because of homestead credit qualification.

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On The Lighter Side

Top Ten Reasons Why It's Great To Be An Assessor

10. Dazzle your friends with your knowledge of external obsolescence
9. The wonderful world of rats, bats and spiders
8. Blamed for higher taxes
7. See places in people's houses that usually require a search warrant to access
6. Arouse the suspicion of an entire neighborhood or city when inspecting properties
5. Chance to really irritate annoying real estate salespeople and appraisers
4. Walk around holding a clipboard just like "Skip" down at the Jiffy Lube
3. Spend hours finding support to justify the market value of a property you already decided when you pulled into the driveway
2. See that people really do hang those black velveteen pictures of Elvis on their living room walls
1. When you need to do something unpopular with property owners - blame it on the state

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Any assessment official having access to the income information contained on the homestead credit application must protect the confidentiality of that information. Other information listed on the application, such as the applicant's name and address, is not considered confidential and may be disclosed to the public. 🌀

Review of Abatement Procedures

North Dakota Century Code ch. 57-23 provides that individuals having an interest in real property and claiming an error in the assessment may file an application for abatement or refund of property tax with the County Auditor. Anyone may file an application for abatement or refund of tax; however, the facts must show that the individual and the property qualify for the reduction requested.

Applications are first presented to the local governing body (township or city) where the property is located, for its recommendation. The township or city assessor should investigate the property and the circumstances involved in the application, and make a recommendation to the local board. The local board reviews the facts before making its recommendation regarding the application. The application then goes to the Board of County Commissioners for its action. Prior to the abatement hearing, the County Director of Tax Equalization investigates the matter and makes a recommendation to the County Board. It is the Board of County

Commissioners that actually approves or denies an application for abatement or refund of tax. The decision should be based on the facts and testimony presented to them. The Board is not required to make its decision at the time the application is presented but must make a decision in a timely manner.

The City Auditor or Township Clerk notifies the applicant of the hearing before the local governing board. The County Auditor notifies the applicant of the hearing before the Board of County Commissioners.

The hearing before the city or township governing board must be scheduled no more than 60 days after the date of notification of hearing, and the recommendations must be forwarded to the county auditor no later than 30 days following the hearing date. The Board of County Commissioners must consider the application at the next regular meeting following the date the application was filed with the County Auditor, or at the next regular meeting following transmittal of the recommendations of the local governing board, whichever comes first.

The Board of County Commissioners must approve or deny the application, in whole or in part. If the Board denies

the application, the chairperson must sign a statement listing the reasons for denial. If there is a possibility the applicant may appeal the decision to District Court, the Office of State Tax Commissioner recommends that the Board of County Commissioners obtain a thorough record of the testimony given at the hearing. The North Dakota Supreme Court urges Boards of County Commissioners to provide a full explanation of their rationale when determining valuation of property in tax abatement proceedings. Dakota Northwestern Associates Limited Partnership v. Burleigh County Board of Commissioners, 616 N.W.2d 349 (N.D. 2000).

For further explanation of the procedures, see N.D.C.C. ch. 57-23, the Property Tax Guideline titled "Abatement and Refund of Taxes" in Section G of the Property Taxation Manual, and the November 1999 Property Tax Newsletter. 🌀

Need Assistance?

Please direct property tax questions or concerns to:

Office of State Tax Commissioner
Property Tax Division
600 E. Boulevard Ave.
Bismarck, ND 58505-0599
Phone: (701)328-3127
Toll free within state: 1-800-638-2901, option 5
Fax: (701)328-3700
E-mail: lwedge@state.nd.us
Website: www.state.nd.us/taxdpt